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IN THE COURT OF APPEALS OF INDIANA

ATASHIA WILDEY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 92A03-0709-CR-456
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE WHITLEY SUPERIOR COURT
The Honorable Michael Rush, Judge
Cause No. 92D01-0701-FD-41

April 17, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Atashia Wildey appeals her concurrent three-year sentences for two class D

felonies. Wildey argues the court should have found two additional mitigators, consideration of which would have led the court to enter less than the maximum sentence. We affirm.

FACTS AND PROCEDURAL HISTORY

Wildey sold drugs to a police informant. On January 18, 2007, the State charged her with Class D felony dealing in a legend drug[1] and Class D felony dealing in a substance represented to be a controlled substance.[2] She pled guilty without an agreement on July 9, 2007.

Following preparation of the pre-sentence investigation report, a sentencing hearing was held. The court found aggravators: Wildey's "abysmal" and "[v]ery substantial" juvenile history, (Tr. at 21), her nine misdemeanor and two felony convictions in the six years before these crimes, her probation status when she committed these crimes, and a history of violating probation. As mitigators, the court found her parents "completely abdicated their parental responsibilities" with her, (*id.*), her father had done something horrible to her, and she had a history of ADHD and bi-polar disorder. The court imposed two concurrent three-year sentences, with the third year of each suspended to probation.

DISCUSSION AND DECISION

[1] Ind. Code § 16-42-19-11.
[2] Ind. Code § 35-48-4-4.5(a).

Sentencing decisions "rest within the sound discretion of the trial court and are reviewed on appeal only for an abuse of discretion." *Anglemyer v. State*, 868 N.E.2d 482, 490 (Ind. 2007), *clarified on other grounds* 875 N.E.2d 218 (Ind. 2007). We give great deference to the trial court's assessment of the proper weight of mitigating and aggravating circumstances and the appropriateness of the sentence as a whole, and we set aside a sentence only on a showing of a manifest abuse of discretion. *Bocko v. State*, 769 N.E.2d 658, 667 (Ind. Ct. App. 2002), *reh'g denied, trans. denied* 783 N.E.2d 702 (Ind. 2002). "An abuse of discretion occurs if the decision is 'clearly against the logic and effect of the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom.'" *Anglemyer*, 868 N.E.2d at 490 (*quoting K.S. v. State*, 849 N.E.2d 538, 544 (Ind. 2005)). The trial court must consider all evidence of mitigating circumstances presented by a defendant. *Long v. State*, 865 N.E.2d 1031, 1037 (Ind. Ct. App. 2007), *reh'g denied, trans. denied* 878 N.E.2d 214 (Ind. 2007). However, the finding of mitigating circumstances rests within the sound discretion of the trial court. *Id.*

Wildey first cites her guilty plea as a mitigator the court overlooked. "A guilty plea is not automatically a significant mitigating factor." *Sensback v. State*, 720 N.E.2d 1160, 1165 (Ind. 1999). If the State reaps a substantial benefit from the plea of guilty, then the defendant "deserves to have a substantial benefit returned." *Id.* But when a plea results from a defendant's pragmatic decision, the court need not find the plea a significant mitigator. *Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied* 855 N.E.2d 955 (Ind. 2006). Wildey's two charges arose from a single sale of

drugs to a confidential police informant; that evidence was highly likely to result in her conviction. In addition, her counsel informed the trial court at the change of plea hearing that he saw no benefit in Wildey proceeding to trial. (*See* Tr. at 13.) Accordingly, her decision to plead guilty appears sufficiently pragmatic to prohibit our finding the court abused its discretion in failing to find her plea a mitigating factor.

Next, Wildey asserts the court should have found a mitigator in the hardship her imprisonment would cause her dependents. "[T]he hardship to a defendant's dependents is not always a significant mitigating factor." *McElroy v. State*, 865 N.E.2d 584, 592 (Ind. 2007). We will not find error when a defendant fails to show "definite hardship to a dependent." *See Stewart v. State*, 866 N.E.2d 858, 866 (Ind. Ct. App. 2007). Wildey did not have custody of any of her four children at the time she was incarcerated. One lives with her mother, two live with her aunt and uncle, and one had been removed by DCS. Accordingly, we find no abuse of discretion.

We find no abuse of discretion in Wildey's three-year sentences,[3] and we affirm.

Affirmed.

RILEY, J., and KIRSCH, J., concur.

[3] Wildey notes our authority to review and revise sentences under Ind. Appellate Rule 7(B) and asserts at one point that her sentence is inappropriate. However, aside from asserting the error in the failure to find these two mitigators, Wildey has not otherwise provided analysis supporting an argument that her sentence is inappropriate in light of her character and offense. Accordingly, any such argument is waived for appeal. *See Lyles v. State*, 834 N.E.2d 1035, 1050 (Ind. Ct. App. 2005) ("A party waives an issue where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record."), *trans. denied* 841 N.E.2d 191 (Ind. 2005); Ind. Appellate Rule 46(A)(8).